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ABSTRACT

Basic information about the Americans with Disabilities Act of 1990 is presented in a question-and-answer format. The following questions are addressed: "What is the purpose of the Americans with Disabilities Act (ADA)?"; "Why is the ADA needed?"; "How is disability defined by the ADA?"; "What does the ADA cover?"; "How does the law address 'undue hardship'?"; "How soon does the law take effect?"; "If discrimination exists, what can a person do?"; "What specifically does the ADA require for people with mental retardation?"; "What can chapters of the Arc do to help implement the ADA?"; and "Where can I go to get more information about the law?" Contact information for four government agencies is provided. (DB)

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The Arc

a national organization on mental retardation

Q&A

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THE AMERICANS WITH DISABILITIES ACT OF 1990

What is the purpose of the Americans with Disabilities Act (ADA)?

The ADA, signed into law July 26, 1990, bans discrimination based on disability. It gives individuals with disabilities civil rights protections like those provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services and telecommunication relay services.

Why is the ADA needed?

The Civil Rights Act of 1964 does not cover people with disabilities. Until passage of the ADA, federal protections against discrimination based on a person's disability were scattered and very limited.

Congress concluded that discrimination existed against people with disabilities, and they were sometimes denied equal, effective and meaningful opportunities to participate in society.

How is disability defined by the ADA?

The ADA defines disability to mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual, having a record of such an impairment, or being regarded as having such an impairment. This is the same definition included in section 504 of the Rehabilitation Act of 1973, the Fair Housing Act Amendments and the Air Carrier Access Act.

What does the ADA cover?

The requirements for each section of the law are as follows:

Employment

- Employers may not discriminate against an individual with a disability in hiring or promotion if the person is otherwise qualified for the job.
- Employers can ask about one's ability to perform a job, but cannot inquire if someone has a disability or subject a person to tests that tend to screen out people with disabilities.
- Employers will need to provide "reasonable accommodation" to individuals with disabilities if needed. This includes steps such as job restructuring and modification of equipment.
- Employers do not need to provide accommodations that impose an "undue hardship" on business operations.

Transportation

- New public transit buses and rail cars ordered after Aug. 26, 1990, must be accessible to individuals with disabilities.
- Transit authorities must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result.
- Existing rail systems must have one accessible car per train by July 26, 1995.
- New bus and train stations must be accessible.
- Key stations in rapid, light and commuter rail systems must be made accessible by July 26, 1993, with extensions up to 20 years for commuter rail (30 years for rapid and light rail).
- All existing Amtrak stations must be accessible by July 26, 2010.

Public Accommodations

- Private entities such as restaurants, hotels and retail stores may not discriminate against individuals with disabilities, effective Jan. 26, 1992.
- Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.
- Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they are readily achievable.
- All new construction and alterations of facilities must be accessible.

State and Local Government

- State and local governments may not discriminate against qualified individuals with disabilities.
- All government facilities, services, and communications must be accessible consistent with the requirements of section 504 of the Rehabilitation Act of 1973.

Telecommunications

- Companies offering telephone service to the general public must offer telephone relay services to allow communications access for people with speech and hearing impairments who cannot use telephones.

How does the law address "undue hardship"?

The law does not impose unlimited requirements on public accommodations or businesses. The ADA adopts a reasonable compromise to give people with disabilities access to everyday life without placing an undue burden on American enterprises. There are minimal requirements for retrofitting existing facilities. Physical barriers need only be removed when the task can be accomplished without much difficulty or expense.

A small business is exempt from making changes or providing services if doing so would fundamentally alter the nature of the program or result in an undue burden on the business. In deciding what is an undue burden, the size of the business and the cost of the accommodation are the factors considered.

How soon does the law take effect?

The ADA requirements become effective as follows:

Employment

- July 26, 1992, for employers with 25 or more employees.
- July 26, 1994, for employers with 15-24 employees.

Public accommodations

- Jan. 26, 1992, generally.
- Jan. 26, 1993, for new construction.

EC 301890

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Transportation
- Aug. 26, 1990, for purchase or lease of new buses or rail vehicles.
- Jan. 26, 1992, generally, for public bus and rail systems and for privately operated bus and van companies.
- Various dates for other actions related to transportation accessibility.

State and Local Government Operations
- Jan. 26, 1992.

Telecommunications
- July 26, 1993, for provision of relay services.

If discrimination exists, what can a person do?

An individual who needs to file a complaint can do so with the following agencies depending on the activity which was discriminatory.

Employment

Complaints may be filed with the Equal Employment Opportunity Commission. Available remedies include back pay and court orders to stop discrimination.

Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded. Individuals can also file complaints with the Attorney General who may file lawsuits to stop discrimination and obtain money damages and penalties.

Transportation

For public bus and rail systems, individuals may file complaints with the Department of Transportation or bring private lawsuits. For privately operated bus and van companies, individuals may file complaints with the Attorney General or bring private lawsuits under the public accommodations procedures.

State and Local Government Operations

Individuals may file complaints with federal agencies to be designated by the Attorney General or bring private lawsuits.

Telecommunications Relay Services

Individuals may file complaints with the Federal Communications Commission.

What specifically does the ADA require for people with mental retardation?

People with mental retardation are among the covered classes of individuals with disabilities under ADA. There are, however, no specific provisions aimed solely at individuals with mental retardation. Yet, each of the ADA's provisions is available to them. Access to jobs, transportation and public places such as movie theaters, restaurants and stores are each important to achieve full participation in our society. Children and adults with mental retardation cannot be denied access to private day care on the basis of their disability. No longer can anyone deny participation in any of these life activities to a qualified individual with mental retardation.

What can chapters of The Arc do to help implement the ADA?

Many business owners are wary of the impact of the ADA on their businesses. It is important that they fully understand their responsibilities under the ADA and implement whatever steps are necessary to allow access to their places of business. In addition to the specific ADA provisions, they also need to learn more about the strengths and limitations and needs of people with mental retardation.

Here are some ideas of how chapters of The Arc and members can assist in making the ADA a reality in your community:

- Make known your availability to provide technical assistance in your community on how to comply with ADA.
- Concentrate on those provisions central to allowing access for people with mental retardation. For example, many individuals with mental retardation do not need special lifts to use public transportation. They might, however, need special assistance from bus drivers in embarking on the right bus and disembarking at the correct location. Bus driver training programs are often essential to successful bus transportation for many people with mental retardation. Another example would be employment-related training for businesses who could be potential employers of workers with mental retardation.
- Point out access or other ADA issues to businesses who may not be aware that they may be in violation.
- Work closely with other disability groups who will also be undertaking ADA implementation strategies.
- Ask your state and local government officials to undertake activities to fully comply with ADA.

Where can I go to get more information about the law?

The Arc has developed ADA materials specific to people with mental retardation and related disabilities. You can receive more information on these materials by contacting The Arc at the address or phone number listed on the front of this *Q&A*. You can also obtain ADA information and technical assistance by contacting the agencies below.

U. S. Department of Justice
Office on the Americans with Disabilities Act
Civil Rights Division
P. O. Box 66118
Washington, D.C. 20035-6118
(202) 514-0301 (Voice)
(202) 514-0381 (TDD)
(202) 514-0383 (TDD)

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507

U. S. Department of Transportation
400 7th Street, S.W., Room 10424
Washington, D.C. 20590

Architectural Transportation Barriers Compliance Board
1331 F St., NW
Suite 1000
Washington, D.C. 20004-1111
1-800-USA-ABLE (Voice or TDD)